

Department of Community & Economic Development's

# Final Report

## Regarding the Petition to Incorporate the Home Rule City of Talkeetna

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June 2001



Deborah B. Sedwick  
Commissioner

Tony Knowles  
Governor



This is the Department of Community & Economic Development's (DCED) Final Report regarding the petition to incorporate the home rule city of Talkeetna. The report is also available on the Internet at:

**[http://www.dced.state.ak.us/mra/LBC/Mrad\\_lbc.htm](http://www.dced.state.ak.us/mra/LBC/Mrad_lbc.htm)**



DCED complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission Staff at 907-269-4560.

# Acknowledgements

The following Department of Community and Economic Development (DCED) policy makers provided direction concerning the final DCED recommendation to the Local Boundary Commission:

- Deborah B. Sedwick, Commissioner
- Jeff Bush, Deputy Commissioner
- Bernice Joseph, Deputy Commissioner
- Lamar Cotton, Rural Development Manager
- Patrick K. Poland, Director, Municipal and Regional Assistance Division

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The following persons provided information or assistance in the development of this report.

- Zachary Blumner
- Dan Bockhorst, DCED
- Sandra Garley, Director of Planning, Matanuska-Susitna Borough
- B. Long
- Dennis Ransy
- William W. Stearns
- Constance Twigg



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# Part 1 - Introduction

On April 5, 2001, the Department of Community and Economic Development (DCED) issued its Preliminary Report regarding the amended Petition to incorporate a home rule city of Talkeetna. The DCED Preliminary Report is supplemented by this document, which serves as DCED's final report on the Talkeetna incorporation proposal as required by 3 AAC 110.530.

The DCED Preliminary Report recommended that the Petition be approved, conditioned upon voter approval of a 2% year round sales tax or a 4% seasonal sales tax. After State policy makers carefully considered the comments on DCED's Preliminary Report and further analyzed issues relating to the incorporation proposal, DCED has revised its preliminary recommendation. The final recommendation of DCED is that the amended Petition be approved, subject to satisfaction of specific conditions set forth in Part 4 of this document.

With the issuance of this Final Report, responsibility for judging the merits of the Talkeetna incorporation proposal now shifts to the Local Boundary Commission (LBC). As stated in DCED's Preliminary Report, the LBC is an autonomous board created under Alaska's constitution to objectively consider municipal incorporation and boundary issues from a statewide perspective.

DCED's recommendation in this matter is not binding on the Local Boundary Commission. The LBC may approve, amend, or deny the Petition in a manner other than that recommended in Part 4 of this report. This report is but one component of the evidence that the LBC will weigh in making its decision. Other key elements in the record of the Talkeetna city incorporation proceedings that will be considered by the LBC include:

- the March 17, 2000 amended Petition for incorporation of the City of Talkeetna;

- fifteen letters commenting on the amended Petition;<sup>1</sup>
- six letters expressing views concerning DCED's April 5, 2001 preliminary report concerning the amended incorporation Petition;
- the Matanuska-Susitna Borough's July 21, 2000 brief on the amended Petition;<sup>2</sup>
- The Petitioners' September 13, 2000 Reply Brief;
- testimony and comments to be provided at the Commission's August 25, 2001 public hearing.

## Part 2 - Update of Proceedings

The 68-page *Preliminary Report to the Local Boundary Commission Regarding the Amended Petition to Incorporate the Home Rule City of Talkeetna* (Preliminary Report) was issued on April 5, 2001. That document recounted the actions that occurred between the filing of the original incorporation Petition in March 1998 and the publication of DCED's Preliminary Report. The Preliminary Report also described incorporation future steps in the Talkeetna city incorporation proceedings.

The Preliminary Report was mailed on April 5, 2000 to the Petitioners' Representative, the respondent, and 139 individuals and organizations interested in this proceeding.

The LBC Chairperson established May 7, 2001 as the deadline for comment on the report. Letters commenting on DCED's Preliminary Report were submitted by:

- **B. Long** (two pages, dated April 14, 2001);

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<sup>1</sup> The fifteen correspondents commenting on the filing of the amended Petition are listed on page 8 of DCED's April 5, 2001 preliminary report concerning the amended incorporation Petition.

<sup>2</sup> Matanuska-Susitna Borough's Comments to Amended Petition to Incorporate the City of Talkeetna. Ms. Garley's May 7, 2001 letter on behalf of the Respondent noted that the MSB had submitted extensive comments regarding the Talkeetna incorporation proposal and that issues raised in the Borough's July 21, 2000 brief were "still of concern" to the Borough. The Borough's letter stated that the Borough's July 21, 2000 submission also serves as the MSB response to DCED's April 5, 2001 preliminary report concerning the amended Petition.



- **Dennis Ransy** (one page, dated April 15, 2001);
- **Zachary Blummer**, (one page, dated May 2, 2001);
- **Constance Twigg**, three pages, dated May 3, 2001);
- **Sandra Garley**, Director of Planning, Matanuska-Susitna Borough (two pages, dated May 7, 2001);
- **William W. Stearns**, Owner, D & S Road Services and Talkeetna Refuse (two pages, dated May 7, 2001);

A copy of the comments was provided to the Petitioners' Representative, the Matanuska-Susitna Borough and each member of the LBC. Copies of the letters are included in the Appendix to this report.

The LBC has tentatively planned to hold a public hearing on the incorporation proposal at the Talkeetna Elementary School on Saturday, **August 25, 2001**, beginning at **11:00 a.m.** Notice of the hearing will be issued at least 30 days prior to the hearing.

If the LBC approves the Talkeetna incorporation Petition, Talkeetna voters will decide the question at an incorporation election conducted by the Office of the Lieutenant Governor, Division of Elections.

## **Part 3 - Consideration of Comments Regarding DCED's Preliminary Report**

The six letters offering comments on DCED's Preliminary Report regarding the amended Petition comprised a total of 12 pages. This section of DCED's Final Report addresses those comments submitted regarding DCED's April 5, 2001 Preliminary Report. The comments are addressed in the context of the standards for incorporation of a city within an organized borough that must guide the determination of the Local Boundary Commission regarding the pending proposal to establish the City of Talkeetna.

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**1. Would incorporation of Talkeetna promote maximum local government with a minimum number of local government units? [Alaska Constitution, Article X, §1]**

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**Views of Respondent MSB**

"Road Service areas (RSAs) will be split. MSB agrees with the Department of Community and Economic Development (DCED) in that the total number of service districts will be reduced. However, the residents of the affected RSAs will be negatively impacted."

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**Comments from Others**

**Constance Twigg**

"One of the reasons they wanted to incorporate was because the borough was far away, the Borough didn't help them with their problems, (but this has changed and we now have a person on the assembly which is helping us and many things are happening.) And some that support the petition say because of growth and change. The downtown area, the people are forming a "Historic Downtown Talkeetna Landowners Association" and will incorporate and will take care of the needs in this area. We do not need a local authority like a city council, we already have the community council. The Mat-Su Borough does a very good job in taking care of our roads, water and sewer and snow, why do we need local help."

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**DCED Response**

In a recent decisional statement, the Local Boundary Commission noted that there is a preference in Article X, §1 for the gradual elimination of cities within boroughs.<sup>3</sup> However, the Commission also noted that,

"in the context of Article X, §1 of Alaska's Constitution, the phrase 'local government unit' has been construed by the Alaska Supreme Court to include borough service areas. (See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1243 [Alaska 1995].) Moreover, Vic Fischer,

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<sup>3</sup> *Local Boundary Commission Statement of Decision In the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, issued on June 7, 2001.

an expert in Alaska local government and a former Constitutional Convention delegate, also construes borough service areas to be local government units in the context of Article X, §§ 1 and 5. See Final Report to the Local Boundary Commission Regarding the City of Haines' Petition to Annex 6.5 Square Miles, Department of Community and Regional Affairs, October, 1997.)

The Commission stresses, however, that borough service areas are very distinct from city and borough governments. A borough service area is not a municipal government in any sense. In fact, it is not an entity. A service area has no capacity to sue or be sued. It lacks legislative powers, executive powers, and the power to tax. A borough service area is merely a defined area of a borough in which the borough government exercises different powers or provides different levels of service as compared to other parts of the borough."

The Commission also noted that,

" . . . a service area does not have the same status, powers, or standing as a municipal government."

The Talkeetna incorporation Petition clearly pits the principal of maximum local self-government against the presumption against proliferation of local government units.

A key question raised is whether the increase in the number of municipal governments in the MSB that would result from incorporation of Talkeetna is sufficiently balanced by the enhancement of local self-government that would be afforded to Talkeetna residents if a Talkeetna city government is established. DCED considers the construction of Article X, §1 to place more emphasis upon maximum local self-government than upon the minimization of local government units. Incorporation of the City of Talkeetna would reduce the total number of service areas at Talkeetna while allowing the development of a community-based municipal government. Consequently, DCED considers the standard to be satisfied, although to a somewhat modest extent.

- 2. Do the boundaries of the proposed city include all land and water necessary to provide the full development of essential city services on an efficient and cost-effective basis?**  
**[AS 29.05.011(a)(2), 3 AAC 110.040(a)]**

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### Views of Respondent MSB

"3 AAC 110 040(a)(1) Issues relating to Freedom Hills will need to be addressed should the city incorporate. Incorporation should be contingent upon resolution of those issues."

"AS 29.05.011(a)(2) MSB agrees with DCED's conclusion in that the proposed boundaries are generally the same as the community council boundaries. MSB 2.76.040 defines natural communities as areas within the borough that have or are achieving district identity by reason of geography, history, population, transportation, fire protection, and other factors. However, services provided to area residents will be impacted by the proposed splitting of RSAs."

"3 AC 110.040(a)(3) Issues regarding the proposed splitting of RSAs need to be addressed before the proposed incorporation of the City of Talkeetna."

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### Comments from Others

#### William W. Stearns

"The boundaries of the proposed incorporation area are far too large to achieve passage at an area wide vote."

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### DCED Response

In its preliminary report regarding the previous Petition for incorporation, DCED expressed agreement with the position of the MSB that the exclusion of the area encompassing the Freedom Hills access road resulted in the boundaries proposed by the previous Petition not fulfilling the requirements of AS 29.05.011(a)(2). That Petition was amended to include the referenced area. Whether or not the proposed boundaries are unpopular with the residents of the area proposed for incorporation residing outside the downtown core area is, in itself, not relevant to whether AS 29.05.011(a)(2) is satisfied by the incorporation proposal. Therefore, DCED reaffirms its previous finding that the standard is met.

**3. Is the area proposed for incorporation limited to the present local community, plus reasonably predictable growth, development and public safety needs during the decade following the effective date of incorporation? [3 AAC 110.040(b)]**

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**Views of Respondent MSB**

The MSB's July 21, 2000 responsive brief noted the following statement contained in a May 9, 2000 memorandum from the Borough's Public Works Director, Jim Swing.

The remainder of the greater Talkeetna Road Service Area #29 (area outside proposed city boundary) is a problem. The area would be too small to become a service area of its own and would be negatively impacted by a forced consolidation with the Caswell Lakes RSA #15 (greater Talkeetna tax rate 2.67 mils, Caswell Lakes RSA tax rate 3.61 mils). The State of Alaska should consider this negative aspect to the residents of RSA #29 living outside the proposed city when debating the merits of incorporation."

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**Comments from Others**

**B. Long**

"DCED did not consider adequately whether incorporation will have extraterritorial powers. As DCED correctly stated on page 28, over 26,000 acres in the greater Talkeetna area were disposed of in various programs between 1968 and 1988. The majority of these lands are in roadless areas and the land use is seasonal, recreational, and of a remote lifestyle. What happens in Talkeetna affects these lands, particularly if a Talkeetna City Council promotes intense commercialization of lands outside their boundaries or adjacent. Trails to these lands are within the proposed city boundaries and trail use, which is access for these lands could be negatively impacted by incorporation."

**Constance Twigg**

"As small as our downtown is we cannot have more businesses move here. People can build outside of town, but very few land in the town of Takeetna."

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## DCED Response

DCED reaffirms the position stated in its April 2001 Preliminary Report. As noted, the proposed city boundaries are based upon the Talkeetna community council boundaries. Other existing boundaries encompassing Talkeetna include the Talkeetna Planning Area and the Talkeetna Designated Census Place. The planning area boundaries encompass about 350 square miles, more than 14 times larger than the 24 square miles within the proposed city boundaries.

- 4. Do the proposed city boundaries include entire geographic regions or large uninhabited areas not justified by the application of other incorporation standards? [3 AAC 110.040(c)]**

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## Comments from Others

### William Stearns

"The boundaries of the proposed incorporation area are far too large to achieve passage at an area wide vote."

"The amended petition with the present boundaries will surely fail and the Village will continue to be paralyzed to act on important issues. It would also discourage any future attempts at incorporation within the Village."

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## DCED Response

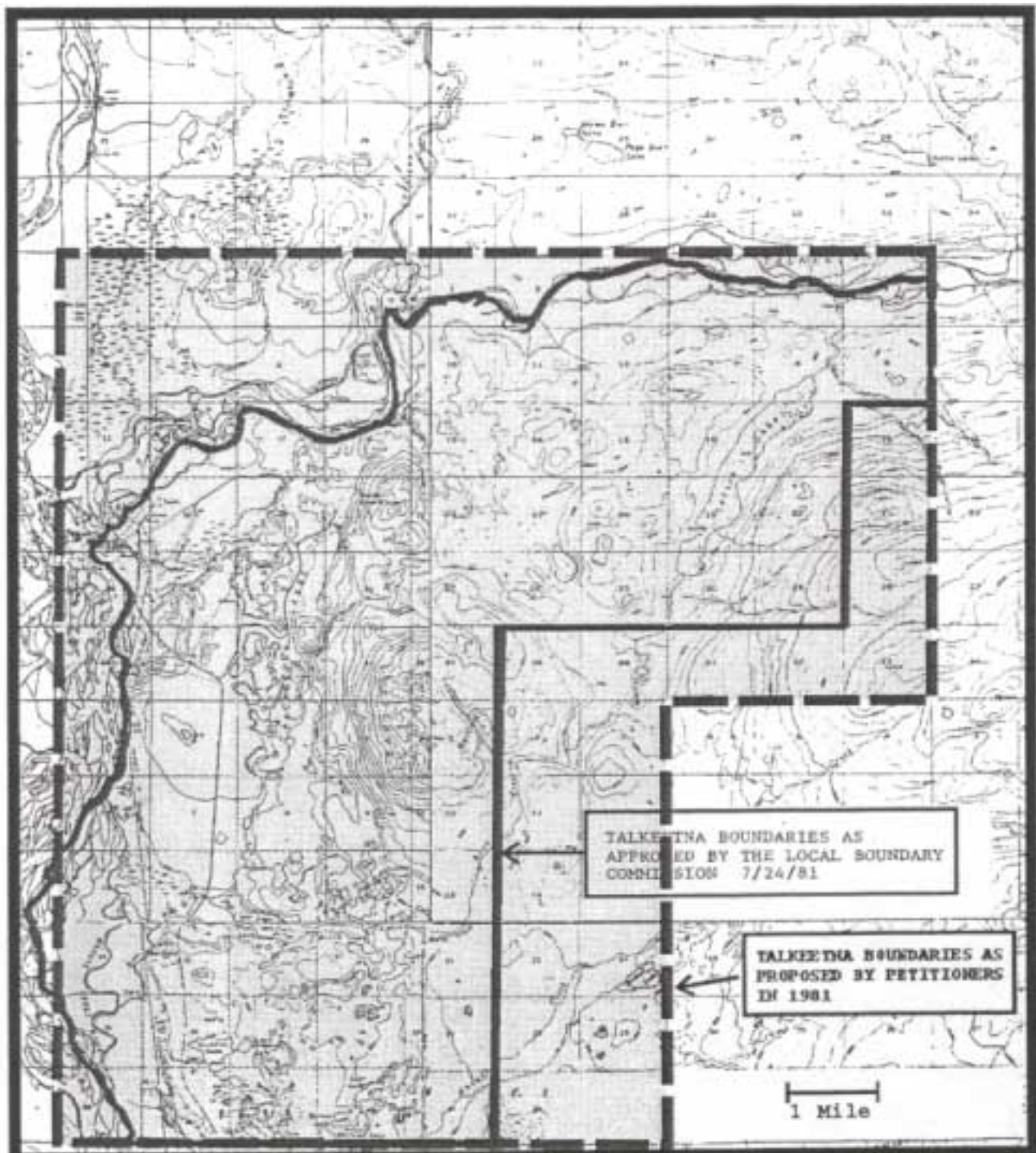
The proposed City of Talkeetna boundaries are only about 88% as large as the average city in Alaska.<sup>4</sup> The 24-square mile area sought by the Petitioners for inclusion within the boundaries of the proposed City of Talkeetna boundaries is only about 37% as large as the 65-square mile area approved by the Local Boundary Commission for incorporation in 1981.

DCED reaffirms the views and conclusion contained in the April 2001 Preliminary Report.

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<sup>4</sup> The average area within boundaries of cities in Alaska is about 27.1 square miles.

**City of Talkeetna Boundaries as proposed and as approved by the LBC before being rejected by local voters in 1981.**



**5. Does the economy of the proposed city include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level? [AS 29.05.011(a)(3); 3 AAC 110.020(a)(1)-(11)]**

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**Comments by Respondent MSB**

"AS 29.05.011(a)(3); 3 AAC 110.020(a)(1-11)

DCED correctly notes there are many unresolved questions regarding the petitioners' proposed budget and how the proposed services will be funded. The borough does not want to see the City of Talkeetna incorporate only to struggle, or worse fail, because they set unrealistic expectations in their budget. For example, the petitioners show a budget of \$80,000 to operate the library. MSB Department of Community development states that it currently costs the borough \$109,000 to operate the Talkeetna library using a large volunteer workforce."

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**Comments from Others**

**B. Long**

"With a downturn in the economy will there be the population or revenue or tax base to support a city government and the services it has taken over. I don't believe there will be."

**William Stearns**

"Even with the amendments to the budget and the takeover of water and sewer and solid waste, the petition is severely deficient in revenues and expenses. The entire document lacks research into the budget and input from the affected residents to have a chance of success."

**Constance Twigg**

"Talkeetna residents have a below-average standard of living and many earn below the national poverty level they live in small homes and some without indoor plumbing or electricity but they choose to live here – because of the simpler lifestyle and the high quality of living it affords."



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## DCED Response

The MSB has consistently and appropriately expressed concerns about elements of the Petitioners' proposed budget. Such concerns by the MSB relate to budget elements that appear to have been overlooked, such as animal control, or under-funded, such as the library. While DCED does not discount such concerns by the Respondent, DCED does not construe the issues raised by the MSB to indicate or infer that Talkeetna lacks the human or financial resources to sustain a city government. DCED notes that in approving incorporation of Talkeetna in 1981 the Local Boundary Commission determined that Talkeetna had human and financial resources sufficient to support city government. Talkeetna's economy has not regressed since that time. As noted in DCED's April 5, 2000 Preliminary Report, Talkeetna has recently exhibited robust economic growth and development. Therefore, DCED reaffirms its conclusion that the amended Petition satisfies the standard.

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### 6. Is the population of the community large and stable enough to support city government? [AS 29.05.011(a)(4); 3 AAC 110.030]

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#### Comments from Others

##### B. Long

"I question whether there is enough of a stable population to support city government. There is tremendous seasonal disparities. Yes, there has been tremendous growth and development in Talkeetna but the economy in general was booming."

"The proposed budget of the petitioners, I believe, severely underestimates many of the costs to deliver municipal services. Where are the estimates for equipment purchases, infrastructure & facility maintenance and improvement? Where is the budget for the staff and operation costs for the animal control services? There are many unresolved questions and the budget needs to be reexamined."

##### Constance Twigg

"I don't know where you got 758 residents? And only 52 registered voters filed the petition. There isn't 200 people that live in around Talkeetna area close."

"I do not believe that this place can take care of all these with only less than 200 people – how can you say we have enough people to incorporate this little place of Talkeetna? Most live outside of Talkeetna area."

"I think people better count the people here again. You cannot count the people who are in Sunshine area, which is most half of the Spur road, leading into Talkeetna."

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## DCED Response

The original estimate of 758 in the area proposed for incorporation was provided by the MSB. The 2000 federal census recorded 772 residents in the Talkeetna Designated Census Place. Of these, 592 were recorded as over 18 years of age. Since the Talkeetna DCP does not include all of the area within the boundaries of the proposed City of Talkeetna, the population of the area proposed for incorporation is probably significantly higher than the 758 estimated in 1998 when the original incorporation Petition was developed.

### 7. Is there is a demonstrated need for city government? [AS 29.05.011(a); 3 AAC 110.010]

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## Views of Respondent MSB

"3 AAC 110.010(a)(1) MSB disagrees with DCED's conclusion that fracturing of RSAs is an insufficient basis for denying a petition. The fracturing of RSAs will negatively impact the area's residents, and must be addressed before action on the petition."

"3 AAC 110.010(a)(2)

MSB agrees with DCED. Animal control must be more thoroughly addressed by the petitioners. If this is not addressed, there may be a public safety problem."

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## Comments from Others

### Zachary Blumner

". . . I also contend that the need for city government has not been demonstrated. (3 AAC 110.010) This is clear since the DCED itself states in the report that services are being adequately provided by the MSB. No increased efficiency or efficacy could be provided by

incorporation due to the splitting of RSA #29, the failure to adopt solid waste services etc. . . I am baffled as to how the DCED can disregard so many pertinent issues."

### B. Long

"It is interesting to note that the majority of public comment at all times to the incorporation petition has been in opposition. In fact, there are only two public comments that have been in support of incorporation. If there is community support for this petition, where is the evidence for it? It seems that the only reason this process moves forward is because the process was started."

### William W. Stearns

"The need for local governing authority clearly is needed in the downtown and east Talkeetna areas. These are the areas that are impacted the most. For the purpose of this writing, I will refer to this area as the Village. The balance of the incorporation area will be referred to as the non-Village area."

### Dennis Ransy

"I continue to oppose the incorporation of Talkeetna in any form. It does not make sense socially, environmentally or economically. Taxes would be added on top of taxes, especially for those who can least afford it."

"Incorporation is the idea of a few self-serving individuals looking for well-funded city jobs. Public opinion is running roughly 99% against it. But the process rumbles on like a headless monster. Please kill it before it multiplies – or wastes any more of my time."

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## DCED Response

According to the MSB, the area proposed for incorporation includes about 19.3 miles of roads and streets out of the total of 74.15 miles of roads and streets within the Greater Talkeetna Road Service Area #29. This constituted about 26% of the total road miles within RSA 29. In 1998, the MSB estimated that incorporation would result in a **decrease** of the property tax rate required for the service for the area within the proposed city from 2.67 mills to 1.69 mills an **increase** of the property tax rate in the remnant of

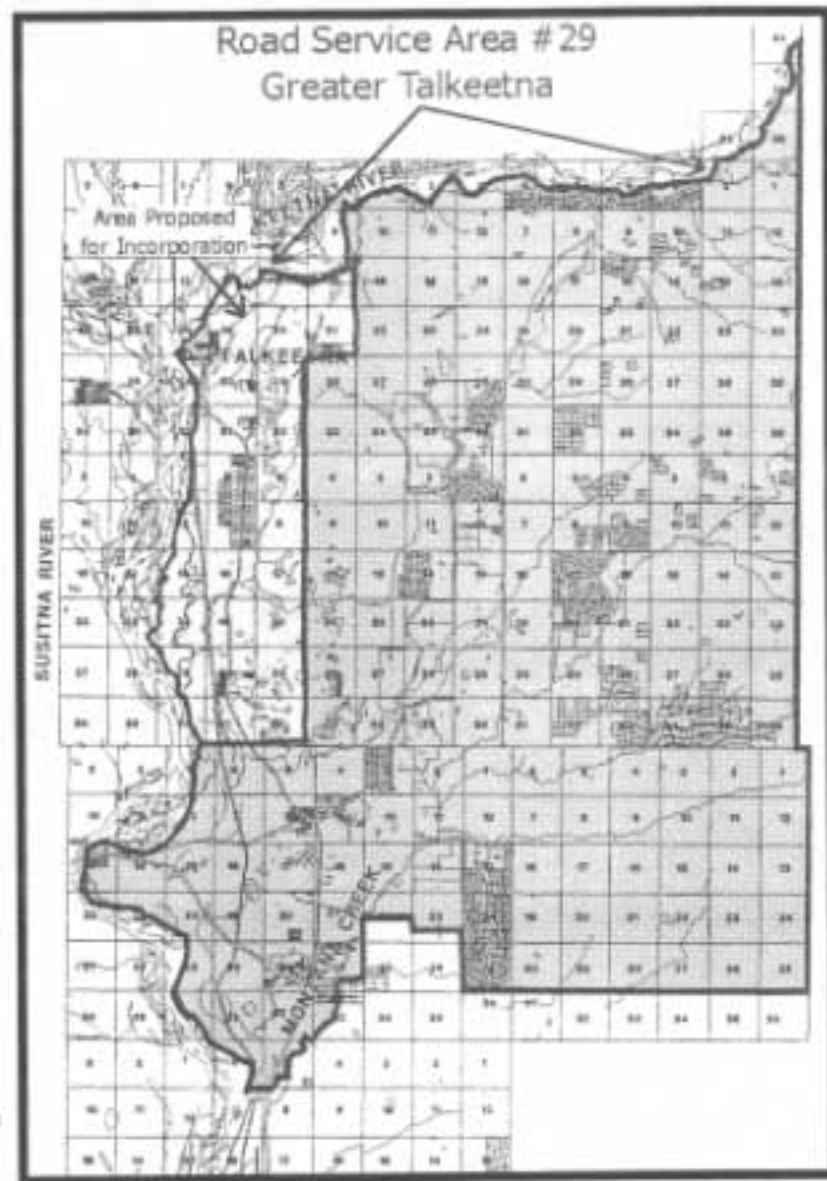
the RSA remaining outside the boundaries of the city to 3.46 mills.<sup>5</sup> At that time, the total assessed value of RSA #29 was \$51,896,980 and the assessed value of the area within the proposed city boundaries was \$21,534,100. This constituted about 41% of the total assessed value within the RSA. While the effect of the alteration of the appears to be potentially detrimental to the interests of the taxpayers in the remnant portion of RSA #29 that would not be included within the boundaries of the proposed city, DCED does not consider an increase in property tax rates of 0.79 mills to be an overriding concern that would support a finding that the proposed boundaries of the City are inconsistent with the standard.

DCED has noted that certain elements of the Petition constitute legitimate basis for concern and that the record suggests a significant degree of committed opposition to incorporation. Comments by correspondents Long and Ransy infer that DCED has the ability to terminate the public process relating to the Petition. Such is not the case when a petition meets the technical requirements for filing. Further, DCED recognizes that citizens have a right to petition the Local Boundary Commission and there is a general rule of liberal construction given to matters of initiative and referendum when citizens are exercising a power reserved to them under the constitution or in statute. At this juncture, DCED's deliberative role in the proceedings is limited to offering non-binding recommendations. Discretion rests with the Local Boundary Commission, and, subject to the Commission's action, ultimately with the voters residing in the area proposed for incorporation.

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<sup>5</sup> *Draft Report of the Department of Community & Regional Affairs to the Local Boundary Commission Regarding the Proposal to Incorporate the Home Rule City of Talkeetna*. December 1998, at 20.

## Road Service Area #29 and the City of Talkeetna proposed boundaries



**8. Can essential city services be provided more efficiently or more effectively by the Matanuska-Susitna Borough on an areawide or nonareawide basis or by annexation to an existing city?  
[AS 29.05.021(b); 3 AAC 110.010]**

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**Views of Respondent MSB**

"AS 29.05.021(b); 3 AAC 110.010

MSB disagrees with the conclusions of DCED. The table on page 61 lists twenty-six services provided by the Borough. Eight of these services are borough areawide services and must remain so. One Borough service area is Fire Service, which the petitioners propose to leave with the Borough. Six services are to be assumed by the proposed city. Ten listed services have been identified in DCED's table as unclear or undetermined by the petitioners. While the revised petition has clarified several issues relating to services, there are many issues that need to be addressed."

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**Comments from Others**

**Zachary Blumner**

"The draft report by the DCED has some faults that need to be addressed. I believe that the Alaska Statutes 29.05.021 clearly limits Talkeetna from incorporation since no entity can provide evidence that the MSB has failed to provide services adequately. The DCED itself acknowledges this in the draft report."

**B. Long**

"My concern is that the services an incorporated Talkeetna would take over will be negatively impacted."

**Dennis Ransy**

"There is no way a local government would be able to take on the responsibilities now carried by the state & borough. It would be a disaster for public services & utilities."

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**DCED Response**

As stated in DCED's April, 2001 Preliminary Report, the record in these proceedings does not demonstrate that the

Matanuska-Susitna Borough has failed to properly deliver municipal services to the Talkeetna area. Nevertheless, neither AS 29.05.021(b) nor 3 AAC 110.010 mention of delivery of services by borough service areas. If city incorporation occurs in Talkeetna, it would result in a reduction of MSB service areas in Talkeetna.

Thus DCED reaffirms its preliminary conclusion that even though the MSB can and does efficiently provide essential services to Talkeetna on an areawide, nonareawide and service area basis, the standard does not constitute an insurmountable impediment to incorporation of the City of Talkeetna.

**9. Does Talkeetna constitute a community demonstrated by people living close together in a neighborhood setting?  
[3 AAC 110.040(c)]**

Satisfaction of this standard may be demonstrated by relevant factors such as:

- unrestricted public access to reside there;
- the lack of any contiguous or adjacent community; and
- people living at Talkeetna on a permanent basis for reasons other than conditions of employment.

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### Comments by Others

#### William Stearns

"The issues of the Village are very different from those of the non-Village area, therefore most eligible voters are adamantly opposed to incorporation – there are twice as many voters in the non-village area."

"When you consider that it takes 400 or more to incorporate a home rule city, it is clear why they elected to include the Spur Road and outlying areas; this would allow the total combined number of residents to go over the 400 required for incorporation of a home rule city. The village has only about 300 residents."

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### DCED Response

Comments regarding the unpopularity of the incorporation proposal among residents outside the core area may be

validated if the petition is placed before Talkeetna voters. However, comments regarding the purported unpopularity of the proposal notwithstanding, DCED has concluded that the area proposed for incorporation does constitute a community under the definition in the applicable standard. This view is supported by such factors as the MSB designation of Talkeetna Community Council boundaries corresponding to those of the proposed city and attendance of children from the area proposed for annexation at the Talkeetna elementary school in Talkeetna. Further, Mr. Stearns' letter also states that the Petitioners' representatives themselves "reside outside the Village."

**10. Does the petition include a practical plan demonstrating the proposed city's intent and capability to extend essential municipal services in the shortest practicable time after incorporation? [3 AAC 110.900]**

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**Views of Respondent MSB**

In a May 9, 2000 memorandum to former Borough Manager Michael J. Scott, MSB Public Works Director Jim Swing stated:

"1. All transfers of responsibilities for services should be made as of July 1 of whatever year the service is being transferred, due to the start of new fiscal years.

2. The remainder of the Greater Talkeetna Road Service Area #29 (area outside proposed city boundaries) is a problem. The area would be too small to become a service area of its own and would be negatively impacted by a forced consolidation with the Caswell Lakes BSA #15 (Greater Talkeetna tax rate 2.67 mils, Caswell Lakes RSA tax rate 3.61 mils). The state of Alaska should consider this negative aspect to the residents of RSA #29 living outside the proposed city when debating the merits of incorporation.

3. There is over \$50,000 in the Freedom Hills fund balance which is intended to pay for construction of a new access road to the Freedom Hills Subdivision. These funds would be transferred to a new city. An agreement would be required to assure usage in the Freedom Hills Subdivision, as there exists a Court order in this matter."



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## Comments from Others

### Zachary Blumner

"Public Works Director Jim Swing has voiced concerns about the fracturing of RSA #29 and he has stated that the MSB Public Safety Department does not believe that it is prudent for the city to assume responsibility for solid waste disposal. The Community Development Director points out that road maintenance should include parking and that there is no budget for animal control needs including licenses, at least a part time person and at least a part time person and the costs of required quarantine of animals, and provide for animal control services within six months of incorporation. Failure to do so could result in a public safety problem, in his opinion and according to the official view of the DCED."

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## DCED Response

On page 65 of its April 5, 2001 Preliminary Report concerning the amended incorporation petition, DCED noted that:

- elements of the record regarding transition and responsibility for delivery of services by the new city after incorporation were vague;
- many of the concerns raised about transition, particularly those raised by the MSB, were relevant and legitimate;
- the standard provides up to two years to complete transition;
- the amended Petition anticipates completion of transition within 18 months;
- the Petitioners had an opportunity to clarify transition issues in the context of submitting comments regarding the April 5, 2001 Preliminary Report.

The Petitioners September 13, 2000 Reply Brief states agreement with views expressed by the respondent MSB and correspondent William Stearns that it would not be prudent

for the newly-incorporated City of Talkeetna to assume responsibility for solid waste disposal services.<sup>6</sup>

"Solid Waste - If it's agreeable to the Local Boundary Commission, we concur with the Matanuska-Susitna Borough request that the City withdraw the request to assume solid waste authority." (at 4)

AS 29.35.310(a) provides that "A city in a first or second class borough may transfer to the borough in which it is located any of its powers or functions, subject to the approval of the assembly." Thus, subject to the willingness of the MSB, an arrangement could be made for solid waste services to continue essentially unchanged.

**11. Will incorporation deny any civil or political right to any individual because of race, color, creed, sex, or national origin? [3 AAC 110.910]**

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**Comments from Others**

None.

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**DCED Comments**

This standard has not been raised as an issue in response to the DCED staff report or elsewhere in the record. DCED is unaware of any diminution of civil or political rights of any person anticipated as a consequence of incorporation of the proposed City of Talkeetna.

**12. Is incorporation of a home rule City of Talkeetna in the best interests of the State of Alaska? [AS 29.05.100(a)]**

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**Comments from Others**

None.

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<sup>6</sup> A memorandum dated July 19, 1999, from by MSB Public Works Director Jim Swing, was included as Exhibit 5 of the Respondent's July 21, 2000 brief concerning the filing of the amended petition for incorporation of the City of Talkeetna.

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## DCED Comments

In 1998, the Alaska Department of Natural Resources estimated that the proposed City of Talkeetna would be entitled to select approximately ten acres of State-owned land upon incorporation, pursuant to AS 29.05.030.<sup>7</sup> If incorporation occurs, the City will also be entitled to an incorporation grant totaling \$75,000 over two years pursuant to AS 29.05.180.<sup>8</sup> Although costs accrue to the State as a consequence of incorporation, such costs are not considered by DCED to be particularly significant, given the other significant considerations relevant to the proposed city incorporation.

### 13. Other relevant factors.

#### Planning Powers

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#### Comments from Others

##### William W. Stearns

"When viewed in terms of a realistic incorporation plan, it is clearly aimed at zoning."

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<sup>7</sup> Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities.  
(a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

<sup>8</sup> Sec. 29.05.180. Organization grants to cities.  
(a) To defray the cost of transition to city government and to provide for interim government operations, each city incorporated after December 31, 1985 is entitled to an organization grant of \$50,000 for the first full or partial fiscal year after incorporation.

(d) A city entitled to an organization grant under (a) or (b) of this section is entitled to a second organization grant of \$25,000. The department shall disburse the second organization grant within 30 days after the beginning of the city's second fiscal year after incorporation, reclassification, or adoption of a home rule charter or as soon after that time as money is appropriated and available for the purpose.

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## DCED Response

Section 10.1 of the proposed City of Talkeetna charter requires the City Council to adopt and implement a comprehensive plan. However, planning and zoning are areawide powers of the MSB. As the July 21, 2000 MSB brief states, areawide powers exercised by a borough may not be exercised by a city within the borough except and unless authorized by a borough ordinance.(at 9)

## Part 4 - Conclusion and Final Recommendation

It is DCED's responsibility in this matter to offer an objective recommendation to the LBC based on the standards existing in law for incorporation of a home rule city.

After carefully considering the comments on DCED's Preliminary Report, DCED maintains its preliminary recommendations that the amended Petition for incorporation of a home rule City of Talkeetna be approved conditioned upon voter authorization at the incorporation election of the levy of a 2 % year-round sales tax by the City of Talkeetna or a 4% seasonal (May through September) sales tax.

The recommended boundaries of the home rule City of Talkeetna encompass 24 square miles. The map showing those boundaries is on the following page.

## DCED Recommended Boundaries

